IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4424 OF 2005

Gangaram Malku Gadge. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri S.V.Kotwal i/by Shri M.S.Mohite for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 25th July, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. Offence alleged against the Applicant and co-accused is under sections 302 read with 34 and 120-B of the Indian Penal Code. The learned Counsel appearing for the Applicant has taken me through the statements of witnesses and other material on record. He has placed reliance on the order dated 14th September 2004 passed by the Sessions Court in the case of co accused. The learned Counsel for the Applicant submitted that the Police have not conducted the test identification parade and the Police have shown the Applicant in the Police Station to the prosecution witnesses which has caused prejudice to the Applicant. He submitted that the co-accused who is enlarged on bail has not played any

role in the actual assault and the same is the case in case of the present Applicant. He submitted that allegation against them is that they hired professional killers. The learned A.P.P. has pointed out the relevant material on record which shows complicity of the Applicant.

3. The material against the Applicant indicates that he allegedly purchased the weapon which was used in the offence and he got the weapon sharpened from another witness. The statement of the witnesses from whom he purchased the weapon has been recorded. There is a statement of a witness showing that the Applicant made arrangement for stay of the killers in a lodge. The statement of the mohter of the deceased refers to the threat given by the Applicant to her to finish one of her sons. There is a material to show existence of motive. The learned Counsel for the Applicant was right in submitting that the extra judicial confession which is relied upon by the prosectuion is very weak piece of evidence. However, it is to be noted that apart from the said extra judicial confession, there is sufficient material on record to connect the Applicant with the offence of a very serious nature. The Applicant cannot claim parity as motive is alleged against the Applicant and the Applicant is alleged to have played a role in acquiring the weapon and in commission of crime. Hence no case is made out for grant of bail. The Application

is rejected.

4. Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

Judge.